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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,137

08/18/2006

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EXAMINER

PARSLEY, DAVID J

ART UNIT

PAPER NUMBER

3643

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/598,137	Applicant(s) BAVICCHI, DARIO	
	Examiner DAVID J. PARSLEY	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7-17-07</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Preliminary Amendment

1. Entry of applicant's preliminary amendment dated 8-18-06 into the application file is acknowledged.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 6 and 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent No. 3,965,614 to Kienholz.

Referring to claim 1, Kienholz discloses a domestic seeding device comprising, at least two substantially flat containers - at 12, able to be stacked one on top of the other - see figure 3,

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each of which is able to receive a layer of seeds for domestic cultivation of relative shoots in hydroculture – see figure 3, the device comprising at least a supporting and distancing element – cent containers a gap – at 32,42, for the passage of a flow of air in contact with the seeds/shoots arranged in every container - see figure 3, the supporting and distancing element comprising an annular supporting surface - at the sides of 12, on which a lower face of the bottom wall of a container is able to rest - see figure 3.

Referring to claim 2, Kienholz discloses each of the containers comprises a central through hole – at 30, and wherein the supporting and distancing element comprises an axial through conduit - see at 18,32,42, able to be arranged aligned with the central hole so as to allow the passage of water - see figure 3.

Referring to claim 6, Kienholz discloses each of the containers comprises an axial connection seating able to at least partly house a relative supporting and distancing element – see at the bottom of 12,21 in figure 3.

Referring to claim 8, Kienholz discloses a closing element – at 18, able to be associated with an upper segment of the container located at a top - see figure 3, so as to close an upper aperture of a relative central through hole - see figure 3.

Referring to claim 9, Kienholz discloses each container has a bottom wall and an outer raised containing wall – see figure 3, and wherein the annular supporting surface of the supporting and distancing element - at the bottom and side of 21, is positioned at a height greater than the containing wall - see figure 3, so as to define a gap for the passage of a flow of air between two adjacent containers - see figure 3.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5, 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kienholz as applied to claim 1 above, and further in view of U.S. Patent No. 4,787,172 to Lee.

Referring to claim 3, Kienholz does not disclose each of the containers comprises on the bottom wall a plurality of through apertures able to allow water to fall into a container below. Lee does disclose each of the containers comprises on the bottom wall a plurality of through apertures – see in 15, able to allow water to fall into a container below – see figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kienholz and add the apertures in the bottom wall of the containers, so as to facilitate drainage of liquids in the device.

Referring to claim 4, Kienholz as modified by Lee does not disclose each of the through apertures has a cross section shaped substantially like an upside down V in order to promote passage of water. However, it would have been obvious to one of ordinary skill in the art to take the device of Kienholz as modified by Lee and add the apertures being in an upside V shape, so as to ensure the device has sufficient drainage during use.

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Referring to claim 5, Kienholz as modified by Lee further discloses an upper face of the bottom wall of the containers has at least a knurled surface part able to increase contact between the seeds/shoots and the container – see at 14,36 of Kienholz and – at 15 of Lee.

Referring to claims 7 and 10, Kienholz does not disclose the supporting and distancing element also comprises an attachment pin able to be housed inside the axial connection seating and an attachment seating made underneath and coaxial with the axial conduit and able to house inside it at least an upper segment of a relative container below. Lee does disclose the supporting and distancing element also comprises an attachment pin – at 3, able to be housed inside the axial connection seating – at the center of 15, and an attachment seating made underneath and coaxial with the axial conduit – at the bottom of 15, and able to house inside it at least an upper segment of a relative container below – see figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Kienholz and add the distancing element of Lee, so as to allow for the containers to be securely removably held together during use.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to seeding devices in general:

U.S. Pat. No. 1,688,407 to Wastak – shows seeding device with containers

U.S. Pat. No. 4,006,559 to Carlyon – shows containers and distancing element

U.S. Pat. No. 5,896,701 to Schaerer – shows seeding device with containers

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. PARSLEY whose telephone number is (571)272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David J Parsley/
Primary Examiner, Art Unit 3643